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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

PHAN, JOSEPH T

ART UNIT PAPER NUMBER

2645

DATE MAILED: 11/21/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/771,926

Applicant(s)

SEALEY ET AL.

Examiner

Joseph T Phan

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 25 objected to because of the following informalities: Claim 25 is improper as it recites "The user computer of claim 25..." A dependent claim cannot depend on itself because of antecedent basis issues. Examiner will treat this claim as depending on claim 24, similar to the related method and medium claims in claims 7 and 18. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 6-8, 12, 17-19, and 24-25 rejected under 35 U.S.C. 102(e) as being anticipated by Weikart et al., Patent #6,212,535.

Regarding claims 1, 12, and 19 Weikart teaches a means, method, and computer readable medium in a user computer for sending a voice message, the method and computer comprising:
means for recording by an executable browser plug-in resource a voice message spoken by a calling party based on encoding parameters recognized by a voice

messaging system configured for storing voice messages for a plurality of voice messaging subscribers (col.3 lines 35-59 and col.4 lines 41-67);
means for storing the voice message within a data file having a selectable Multipurpose Internet Mail Extension (MIME) type recognizable by the voice messaging system as a voice message(col.3 line 46-col.4 line 36) ; and
means for outputting the data file using a prescribed messaging protocol for transfer to a destination voice mailbox accessible by the voice messaging system for a corresponding one of the voice messaging subscribers distinct from the calling party (col.4 line 41-col.5 line 7).

Regarding claims 6, 17, and 24, Weikart teaches the method, means, and medium of claims 1,12, and 21 wherein the outputting step includes outputting the data file using an executable e-mail client configured for sending the data file using a prescribed e-mail protocol as the prescribed messaging protocol (col.4 line 60-col.5 line 28).

Regarding claims 7, 18, and 25, Weikart teaches the method, means, and medium of claims 6, 17, and 24 wherein the outputting step includes outputting the data file to the destination voice mailbox according to one of SMTP protocol and IMAP protocol (col.4 lines 60-67 and col.5 lines 39-67)

Regarding claim 8, Weikart teaches a user computer comprising:
a recorder configured for recording a voice message input by a user according to selected encoding parameters recognized by a voice messaging system configured for storing voice messages for a plurality of voice messaging subscribers , the recorder

configured for storing the voice message as a data file having a selectable MIME type recognizable by the voice messaging system as a voice message(col.3 lines 47-58 and col.4 lines 41-67) ; and

an e-mail client configured for sending the data file to a destination voice mailbox for one of the voice messaging subscribers distinct from the user, using a prescribed messaging protocol, enabling access by the voice messaging system for the corresponding one voice messaging subscriber (col.4 line 60-col.5 line 28).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5, 9-11, 13-16, and 20-23 rejected under 35 U.S.C. 103(a) as being unpatentable over Weikart in view of Luzeski et al., Patent #6,301,245.

Regarding claims 2-5, 9-11, 13-16, and 20-23, Weikart discloses the method, means, and computer readable medium of claims 1, 8, 12, and 19 and using an executable browser plug-in resource.

Weikart is silent on the recording step which includes encoding the voice message using mu-law encoding at an encoding rate of 8 kHz according to one of G.711, G.729, and GSM encoding protocols.

However Weikart's system records and sends voice files over the internet(col.3 and col.4) and per applicant's specification(page 9 lines 21-26) and 1998Newton's telecom dictionary(see *attached definitions of G standards*), G.711, G.729, and GSM are standards set by the ITU committee and therefore one of ordinary skill in the art would have been motivated to use these standards of encoding voice messages at a rate of 8 kHz according to one of G.711, G.729, or GSM protocols.

Furthermore, Luzeski, Patent #6,301,245 discloses encoding a voice message for sending over the Internet Protocol using mu-law encoding at a rate of 8 kHz according to one of G.711, G.729, and GSM encoding protocols (Luzeski, appendix of col.24 lines 41-48). Combining Luzeski's teaching with Weikart is also an obvious modification since both inventions discloses encoding and transferring voice over the internet.

Regarding claims 4, 15, and 22, Weikart teaches the method, means, and medium of claims 3, 14, and 21 wherein the storing step includes generating a MIME extension recognizable by the voice messaging system and based on the one encoding protocol utilized by the executable browser plug-in resource (col.3 lines 34-59 and col.4 lines 30-67)

Regarding claims 5, 16, and 23, Weikart teaches the method, means, and medium of claims 3, 14, and 21 further comprising reviewing the voice message by the executable browser plug-in resource prior to the outputting step (col.5 lines 5-12).

Regarding claim 11, Weikart teaches the user computer of claim 9, wherein the

recorder selects the MIME type for the data file based on the one encoding protocol used to encode the voice message (col.5 lines 6-14).

Response to Arguments

4. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T Phan whose telephone number is 703-305-3206. The examiner can normally be reached on M-TH 9:00-6:30, in every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 703-305-4895. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

JTP
November 12, 2003

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

